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SUBJECT: PUBLIC INTEREST LITIGATION RESEARCH PROJECT

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USG channels; not for Internet distribution.

11. (SBU) Summary: In an effort to find ways to amend the
Administrative Litigation Law, China's Ministry of Justice (MOJ)
has tasked Suzhou University School of Law Professor Huang
Xuexian to conduct research on public interest litigation.
Public interest litigation occurs when an individual sues the
government on behalf of the public. Currently, courts are
reluctant to accept suits by individuals against the government
unless the individual is directly harmed by the government's
actions. According to a few local lawyers and judges in Suzhou,
strengthening public interest litigation would curb government
excesses, increase judicial authority and encourage local people
to be more active in fighting for their rights. Professor Huang
will finish his research in December 2009 and is eager to have
more cooperation and exchanges with U.S. interlocutors on this
issue. End Summary.

Public Interest Litigation

12. (SBU) On January 22, ConGen Shanghai Rule of Law Coordinator
(ROL) met with Suzhou University School of Law Professor Huang
Xuexian. Professor Huang reported that the Ministry of Justice
(MOJ) recently tasked him to carry out a research program on
public interest litigation. The MOJ is planning to amend the
Administrative Litigation Law in the next 5 years and has begun
to task academics with research projects to help the Ministry
prepare amendments to the law. Huang's public interest
litigation project is one of the projects sponsored by the MOJ
and will influence whether the MOJ will include provisions in
the new law on this issue. Public interest litigation refers to
cases for which any person or organization can submit a lawsuit
in the public interest of the society and country. Huang said
currently courts in China do not accept most public interest
litigation cases due to lack of laws governing these types of
cases. For example, if a person sues the local Environmental
Protection Bureau for not taking action against a factory
polluting a local river, the local court usually would not
accept the case because there is no direct evidence that the
pollution is harmful to the specific plaintiff. In general,
this has prevented NGOs and lawyers from utilizing public
interest litigation to push for changes. However, as awareness
of environmental protection and civil rights increases, many
Chinese citizens have begun to call for more public interest

litigation.

13. (SBU) According to Professor Huang, his research project should be completed before December 2009 and result in a book on public interest litigation to be published at that time. Huang is now in the stage of information collecting and is interested in the experiences of the United States, Japan and Taiwan on public interest litigation. Although Huang's research is still in a preliminary stage, he believes that a good public interest litigation system will curb government excesses and inspire the public to become more active in fighting for its rights. Huang added that he has gathered a strong team including law professors, students and lawyers in Suzhou to participate in the project.

14. (SBU) ROLC offered to help Huang with his research by connecting him to U.S. experts and providing him information on how to use the Consulate Public Affairs Section's Information Resource Center. Huang was very pleased with the offer and said currently he had few connections with international NGOs or U.S. legal organizations. He believes that engaging with U.S. NGOs on the U.S. experience and comparable legal system on this issue would greatly be of great benefit to his research.

Suzhou Judges and Lawyers Optimistic About the Future of Public Interest Litigation

15. (SBU) In early February, ROLC discussed public interest litigation with lawyers and judges in Suzhou. Most were quite optimistic about public interest litigation in China. Suwu Law Firm partner Wang Kewen stressed the importance of public interest litigation and called it a "rights enlightenment movement" for the common Chinese people. Zhibang Law Firm Partner Gu Dasong told ROLC that he served as a lawyer on the

SHANGHAI 00000066 002 OF 002

first public interest litigation case in Jiangsu Province. His client sued the Nanjing Urban Planning Bureau for issuing a construction permit to a company which destroyed an area that had a scenic view of Zhijing Mountain. According to Gu, a good system of public interest litigation is crucial to the development of the rule of law in China. He said the public interest provisions of applicable laws should be broadened to cover more areas like environmental protection, fighting state-owned monopolies, and promoting civil rights.

16. (SBU) Suzhou judges expressed the same opinions as attorneys Wang and Gu, and said they also believe that improvements in public interest litigation would strengthen judicial authority and the rule of law. They expected that if the Administrative Litigation Law is amended to include explicit provisions on public interest litigation, more and more public interest litigation cases would be accepted by the courts.

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